

## **REMARKS**

### **I. Summary**

Applicant thanks Examiner Vezeris for the thorough examination and for removal of the previous rejection of the claims under 35 U.S.C. § 102 and objections to the claims. Applicant also thanks Examiner Vezeris for the courtesies extended to Applicant during the telephone interview with Applicant's representative, Joseph Flerlage, on February 17, 2009. During the interview, Applicant's representative and the Examiner discussed the cited art and the Office Action mailed November 25, 2008 ("Office Action"). The substance of the interview, including any agreements, is set forth herein.

The Office Action set forth the following:

- Claims 5-8, 36-38 and 50-54 were rejected under 35 U.S.C. § 101.
- Claim 6 was objected to because of informalities.
- Claim 8 was rejected under 35 U.S.C. § 112, second paragraph.
- Claims 5-8, 36-38 and 50-59 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication 2003/0004853 ("Ram").

Claims 5-8, 36-38, 50 and 55 have been amended, support for which may be found throughout the application. No new matter has been added. Applicant respectfully submits that the pending claims are patentable for at least the following reasons:

### **II. Related Applications**

The present application is related through a claim of priority to U.S. Patent Application Serial Nos. 11/417,540 and 11/417,680. For the purposes of the present application, Applicant rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application, and requests examination of the claims according to the language of the claim, and prior art as set forth in the MPEP, without importing statements made by the Applicant in the prosecution of any related application.

### **III. Rejection Under 35 U.S.C. § 101**

The rejection has been obviated by the above amendments. Although Applicant believes that the claims prior to the amendments included patentable subject matter, since the claims were

tied to a particular machine and transformed matter. *In re Bilski*, No. 2007-1130, Slip op. at 10 (Fed. Cir. Oct. 30, 2008), the amendments were presented to expedite examination.

IV. Claim Objection

The term “substantially” in claims is common. (MPEP 2173.05(b)). The Court has also held that the term “substantially” in a claim is both acceptable and definite when viewed in light of general guidelines of the specification. *In re Mattison*, 509 F.2d 563 (CCPA 1975). The question is whether one skilled in the art would understand the claimed subject matter. *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819 (Fed. Cir. 1988).

The specification includes numerous guidelines defining the claim to one skilled in the art. First, the claim itself indicates that the chart is “two-dimensional,” defining that one axis of is substantially perpendicular to a second axis. Second, Figure 8 shows a chart with two axes, in which a price axis is substantially perpendicular to a time axis. The specification indicates that the exchange trading and market information are processed and displayed as a continuously updated chart that plots each trade at the price traded. (p. 18, ll. 34-35). The specification also indicates that the chart allows a user to interpret for each transaction if transactions originate from buyers or sellers and allow a trader to perform detailed observation and digitization of the naturally expressed exchange process. (p. 18, ll. 23-26, 29-31). Accordingly, one skilled in the art would understand that a second axis being “substantially perpendicular” to a first axis in a two-dimensional chart provides the trader the features described in the specification and shown in the figures. Therefore, the term “substantially” is not indefinite.

V. Rejection Under 35 U.S.C. § 112, second paragraph

The rejection to claim 8 has been obviated by the above amendment.

VI. Claim Rejection Under 35 U.S.C. § 102(e)

*Independent Claim 5*

Claim 5 relates displaying market transaction information where whether each trade of a user-selected range was seller-initiated or buyer-initiated is determined according to both the transaction information and order book information. A buyer-initiated order includes open sell order in the order book that was bought and seller-initiated order includes an open buy order in

the order book that was sold. An indicium representing the price of the trade is displayed with an appearance distinguishing between buyer-initiated and a seller-initiated trades.

In comparison, Ram relates to a GUI where buy and sell orders for security are displayed. (Abstract). Figures 14, 15 and 20-23 show a tab set of the GUI. (par. [0225]). Figures 14 and 15 show a “Holding” tab and Figures 20 -22 show an “Open” tab. Figure 23 shows a “Fill” tab for “orders that have been filled.” (par. [0248]). The orders “may have been buy, sell, or short” and the data in Figure 23 is for the corresponding filled order including whether the orders in the “Fill” tab were “Bought,” “Sold,” or “Shorted.”

Applicant submits that Ram does not disclose or suggest at least:

- determining whether each of a user-selected range of trades represented in the transaction information was **seller-initiated or buyer-initiated . . . according to both the transaction information and order book information.**
- displaying [an] . . . indicium having an appearance distinguishing between **buyer-initiated and seller-initiated trades.**

Ram cannot be interpreted as showing a determination of whether a trade is buyer- or seller-initiated as in the claims. Ram shows whether an order is a buy order, sell order, or short, and likewise whether the filled order was bought, sold or shorted in the trade. Thus, Ram discloses determining whether the user bought or sold the security. However, determining whether the user bought or sold is not the same as determining whether the trade was initiated by the seller or buyer. In Ram, there simply is no indication of determining who initiated the trade. Ram does not disclose or suggest that a buyer-initiated order includes an open sell order in the order book that was bought and a seller-initiated order includes an open buy order in the order book that was sold.

For example, a user can be a buyer in a trade (e.g., bought) as well as the initiator of the trade. In that instance, the trade is buyer-initiated and Figure 23 would indicate “Bought” to show that the user bought the security. In comparison, where the user is still the buyer, but the trade is instead initiated by the seller, the trade is seller-initiated. However, since the user bought the security, Figure 23 would still show “Bought” even though the trade was seller-initiated. Nothing in Ram discloses or suggests determining whether a trade was initiated by the seller or by the buyer. Instead, Ram discloses showing whether the trader bought, sold, or shorted in the trade. An interpretation that Figure 23 of Ram discloses determining and displaying whether a

trade was buyer-initiated or seller-initiated contradicts the disclosure of Ram. Applicant respectfully requests removal of the rejection.

In addition, Applicant points out that the data in the figures in is not determined “according to both the transaction information and order book information,” as included in the claims. (emphasis added). For example, the data shown in Figure 23 shows the information for the filled orders and therefore is for the transaction. It is transaction data since it reflects data for the transaction. The data shown in Figure 23 cannot be considered to be determined according to transaction data and order book information, because the data is the transaction data itself. Accordingly, applicants respectfully submit that Ram does not disclose determining whether the trade was seller-initiated or buyer-initiated according to the transaction information and the order book information as included in the claims.

Since Ram does not disclose determining whether a trade was seller-initiated or buyer-initiated according to both the transaction information and order book information, Ram cannot disclose or suggest displaying an indicium having an appearance distinguishing between buyer-initiated and seller-initiated trades. Accordingly, features of claim 5 are entirely missing. Withdrawal of the rejection and allowance of the application are respectfully requested.

#### *Independent Claims 50 and 55*

Claims 50 and 55 include, *inter alia*, the feature for determining whether a trade is seller- or buyer-initiated according to both the transaction information and the order book information, in addition to determining whether the trade is not determinable. The claims also include an indicator that distinguishes between buyer-initiated trades, seller-initiated trades and non-determinable trades. As discussed, Ram does not disclose or suggest at least these features. Accordingly, claims 50 and 55 are also allowable. Withdrawal of the rejection is requested.

#### *Dependent Claims*

While the dependent claims are allowable for the same reasons as independent the claims, the claims are also allowable due to additional features recited therein.

VII. Conclusion

In view of the foregoing, Applicant respectfully submits that the claimed invention as amended is not disclosed or suggested by the cited art. Accordingly, favorable reconsideration and withdrawal of the rejections are respectfully requested. If Examiner believes that further dialog would expedite consideration of the application, Examiner is invited to contact Trading Technologies in-house Patent Counsel Joseph W. Flerlage at 312-698-6065.

Respectfully submitted,  
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